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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,592	10/27/2005	Stephen Michael Kuester	COLGRA P60AUS	6693
20210 7590 04/28/2009 DAVIS & BUJOLD, P.L.L.C. 112 PLEASANT STREET CONCORD, NH 03301			EXAMINER NELSON JR, MILTON	
			ART UNIT	PAPER NUMBER
			3636	
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			04/28/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/554,592	<b>Applicant(s)</b> KUESTER, STEPHEN MICHAEL	
	<b>Examiner</b> Milton Nelson, Jr.	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01/15/09.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 15-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-22, 25, 26 and 28-30 is/are rejected.
- 7) ☒ Claim(s) 23, 24 and 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) he has abandoned the invention.

(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

(f) he did not himself invent the subject matter sought to be patented.

(g)(1) during the course of an interference conducted under section 135 or section 291, another inventor involved therein establishes, to the extent permitted in section 104, that before such person's invention thereof the invention was made by such other inventor and not abandoned, suppressed, or concealed, or (2) before such person's invention thereof, the invention was made in this country by another inventor who had not abandoned, suppressed, or concealed it. In determining priority of invention under this subsection, there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

Claims 15, 20, 21, 22 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Haut et al (5810432). Note elongate member (122, 160) which is a one-piece construction in that the members 122 and 160 are integrally connected to form a single piece. Note that this is similar to the laminated one-piece construction which is represented by several pieces of material rigidly connected together to form the laminated piece. Also note the rear-leg support (124) that is collapsible relative to the one-piece construction, wherein the rear leg-support is pivoted to the seat by way of members 136 and 128. Additionally note the foot projections (132, 134).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vandas et al (2670787) in view of Hilger et al (5927805). The primary reference shows all claimed features of the instant invention with the exception of the chair being a highchair. Note the embodiment of Figures 7 and 8. The secondary reference teaches providing a chair having a one-piece construction as a highchair. It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by configuring the chair of the primary reference as a highchair. This modification provides the advantages of the primary reference in a highchair environment.

Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trethaway (3632162) in view of Hilger et al (5927805) and Huebener (2647560). The primary reference shows all claimed features of the instant invention with the exception of the chair being a highchair, and the rear-leg support being pivoted to the elongate member. In the primary reference, note the elongate member (16) and the rear-leg support (52). Also note that the elongate member is a one-piece laminate molding (note lines 56-57 and 65-66 of column 1). Hilger et al teaches providing a chair having a one-piece construction as a highchair. It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by configuring the chair of the primary reference as a highchair. This modification provides the advantages of the

primary reference in a highchair environment. Huebener teaches configuring a leg support (31, 32, 33, 38, 39) as pivoted (at 38) to the elongate member of a chair, wherein the leg support is used to adjust the height of the chair. It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of Huebener by substituting the pivoted rear-leg support for the rear-leg support of the primary reference. This modification provides a pivot in place of the rigid attachment between the top of the rear-leg support and the elongate member, which enhances tilting adjustment of the chair.

Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trethaway (3632162) in view of Hilger et al (5927805) and Huebener (2647560), as applied to claim 17 above, and further in view of Danko (4210182). The primary reference, as modified above, shows all claimed features of the instant invention with the exception of the laminate core being wood (claim 18); wherein the laminate is faced with wood veneer (claim 19). Danko conventionally teaches configuring a one-piece chair from a laminate having a wood core (note internal wood member), wherein the laminate is faced with a wood veneer (note outer wood member). It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to further modify the primary reference in view of the teachings of Danko by using wood as the laminate for the elongate member, thereby including a wood core and a wood veneer facing. This modification provides an alternate, equivalent type of

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laminate for the highchair, wherein the assembly performs equally as well with either type of laminate.

Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haut (5410432) in view of Baer (4946180). The primary reference shows all claimed features of the instant invention with the exception of the tubular element attached to the seat of the elongate member, the tubular element extending upwardly on either side of the elongate member to provide arm rests to the seat (claim 25); wherein a tray for attachment to the tubular element is included, wherein the tray has mounts for releasably attaching the tray to the tubular element to extend from the front of the highchair either side of the seat (claim 26). Note the discussion of the primary reference above. The secondary reference teaches providing a highchair (see Figure 4) with an elongate member (30, front member 23), wherein the elongate member being of a unitary construction (30 and front member 23 are connected together to form a unit), and including tubular elements (82, 82) forming armrests, with a tray (41, 42), and mounts (89A, 89B, 89C) for releasably attaching the tray to the tubular elements. It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by adding the tubular elements to the highchair as described, and substituting the tray and mounts for the tray and mounts of the primary reference. Such provides armrests for enhanced user comfort and an alternate, equivalent type of tray, wherein either type of tray performs equally as well. Adding the tubular elements is

representative of applying a known technique to a known device ready for improvement to yield predictable results. Substituting the tray is representative of simple substitution of one known element for another to obtain predictable results.

Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haut (5410432) in view of Baer (4946180). The primary reference shows all claimed features of the instant invention with the exception of the tubular element attached to the seat of the elongate member, and forming armrest portions located on either side of the seat (claim 29); wherein a tray for attachment to the tubular element is included, wherein the tray has mounts for releasably attaching the tray to the tubular element to extend from the front of the highchair either side of the seat (claim 30). Note the discussion of the primary reference above. The secondary reference teaches providing a highchair (see Figure 4) with an elongate member (30, front member 23), wherein the elongate member being of a unitary construction (30 and front member 23 are connected together to form a unit), and including tubular elements (82, 82) forming armrests, with a tray (41, 42), and mounts (89A, 89B, 89C) for releasably attaching the tray to the tubular elements. It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by adding the tubular elements to the highchair as described, and substituting the tray and mounts for the tray and mounts of the primary reference. Such provides armrests for enhanced user comfort and an alternate, equivalent type of tray, wherein either type of tray performs equally as well.



Adding the tubular elements is representative of applying a known technique to a known device ready for improvement to yield predictable results. Substituting the tray is representative of simple substitution of one known element for another to obtain predictable results.

### ***Allowable Subject Matter***

Claims 23, 24 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Amendment/Argument***

Applicant's response has been fully considered. Remaining issues are described in the above sections. Reconsideration of the claims has necessitated new grounds of rejection based upon newly cited prior art.

### ***Conclusion***

This Office action has not been made final.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is (571) 272-6861. The examiner can normally be reached on Mon-Thurs, and alternate Fridays, 5:30-3:00 EST EST.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Milton Nelson, Jr./  
Primary Examiner, Art Unit 3636

mn  
April 26, 2009